

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:	:	Chapter 11
	:	
W.R. GRACE & CO., <i>et al.</i> ,	:	Case No. 01-1139 (JKF)
	:	Jointly Administered
Debtors.	:	Re: Docket Nos.: 16468,

**REVISED AND AMENDED CASE MANAGEMENT ORDER FOR THE ESTIMATION
OF ASBESTOS PERSONAL INJURY LIABILITIES**

The Case Management Order for the Estimation of Asbestos Personal Injury Liabilities is revised and amended as follows:

Daubert Motions¹

- * December 7, 2007: Deadline for filing all *Daubert* Motions
- * December 21, 2007: Deadline for filing oppositions to *Daubert* motions
- * January 7, 2008: Deadline for filing replies to *Daubert* motions.

The page limitations on the *Daubert* briefs are as follows: the Official Committee of Asbestos Personal Injury Claimants (“ACC”) and Debtors’ initial *Daubert* briefs are limited to a total of 75 pages each. The Future Claimant’s Representative’s (FCR) and the Equity Committee’s initial briefs are limited to 40 pages each. Opposition briefs are limited to the same number of pages permitted to each party as the initial briefs. Reply briefs are limited to 30 pages per side – a combined 30 pages for the ACC/FCR reply brief and 30 pages for the Debtor/Equity reply brief. The Unsecured Creditors Committee has indicated that it does not intend to file *Daubert* Motions or brief with respect to *Daubert* motions.

Trial Exhibits, Trial Witness Lists and Pre-trial Briefs

Lists of Trial Exhibits, Witness Lists, and Pre-trial Briefs shall be filed with the Court pursuant to the following schedule:

December 21, 2007: Deadline for the submission of the following: (i) ACC/FCR trial brief(s), not to exceed 40 pages in total; (ii) a list of all witnesses that any party intends to call as a witness at the hearing, along with a generalized description of the subject matters of testimony for each witness (e.g. “expert testimony concerning asbestos related medical issues”); and (iii) a list of all trial exhibits that each side intends to offer in its case in chief, premarked for

¹ Any exhibits and information that is “confidential information” as designated by any party shall be filed under seal.

identification. The Parties shall exchange copies of trial exhibits at the same time the exhibit lists and exhibits are filed with the Court. Exhibits which contain “confidential information” as previously designated by any party shall be filed under seal.

For the following lawyer witnesses only, the ACC and FCR must provide a written statement which sets forth in detail the subject areas of expected testimony for each witness: Steven Snyder (to the extent he is to be presented as a fact witness), Peter Kraus, John Cooney, and Theodore Goldberg.

January 4, 2007: Deadline for all parties filing authenticity objections to exhibits and stipulations regarding the admissibility of exhibits. Deadline for the Debtors/Equity/UCC to file a trial brief or briefs not to exceed 40 pages in total.

Issues relating to Order of Witnesses

January 4, 2007: The parties shall file a list of the witnesses expected to be called during the January portion of the Hearing, in the order in which the party calling the witnesses expects to call them. Such lists shall be updated weekly. Thereafter (i.e. for the March, April and May portions of the Hearing), the parties shall file a list of the witnesses expected to be called during the portion of the Hearing to be heard the following month in the order in which the witnesses are expected to be called, at least 10 days prior to the resumption of the Hearing. Such lists shall be updated weekly.

At the end of each hearing day, not later than 7 p.m., the party who is presenting witness testimony the next day shall provide the other parties with the names of the witnesses who will testify and the order in which they will appear.

Issues Relating to Designation of Deposition or Prior Testimony

Deposition or prior testimony designations and counter designations or objections to such designations shall proceed on the following schedule:

At least 14 days prior to the date on which a party intends to offer deposition/prior testimony into evidence, that party shall provide all other parties with a list of the portions of testimony it seeks to introduce, as well as a copy of the transcript marked with the designations. Opposing parties shall then have 10 days to provide counter-designations and/or objections. The party proffering the deposition/prior testimony would then have 3 days to provide any counter-counter designations and/or objections to the counter-designated testimony. The party proffering the deposition/prior testimony must then provide the Court and the other parties with all of the lists of designated testimony and objections, and a copy of the entire deposition/prior transcript marked with the designations shown in colors so that the designating party and any cross-designating party can be easily identified.

Motions in Limine

Any such motions shall proceed pursuant to the following schedule:

Motions in limine will be due two Fridays before the week during which the evidence sought to be excluded is expected to be offered. Responses will be due by noon on the Friday after the Motion is filed. No Replies are permitted. For the first week of trial, any Motions in Limine are due January 7 with responses due by noon on January 11.

Provisions Relating to the allocation of Trial Time

The parties are directed to meet and confer after the filing of the final trial witness and trial exhibit lists on December 21 and provide each other with a reasonable estimate of the length of the direct examinations for the witnesses who will be called in each side's case in chief. Parties are also directed to estimate as best they can the length of time they will spend cross-examining the other sides' witnesses. The Court will further discuss the allocation of trial time and length of trial with the parties at the commencement of the trial on January 14, 2008.

Miscellaneous

Draft versions of demonstrative exhibits must be produced to opposing parties 24 hours prior to use. Final versions of demonstrative exhibits must be produced to opposing parties the morning of the day they are to be used.

Rule 1006 Summaries of voluminous exhibits must be produced to opposing parties at least 72 hours prior to being offered.

Discovery from the lawyer witnesses Steven Snyder, Peter Kraus, John Cooney, and Theodore Goldberg shall remain open and any issues with respect to that discovery will be discussed with the Court at the January 28, 2008 omnibus hearing.

SO ORDERED THIS __ DAY OF _____, 2007:

The Honorable Judith K. Fitzgerald
United States Bankruptcy Judge